

116TH CONGRESS
1ST SESSION

S. 1041

To require the Secretary of Homeland Security to establish a veterans visa program to permit veterans who have been removed from the United States to return as immigrants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 4, 2019

Ms. DUCKWORTH (for herself, Ms. HIRONO, Mr. BLUMENTHAL, Mr. MERKLEY, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To require the Secretary of Homeland Security to establish a veterans visa program to permit veterans who have been removed from the United States to return as immigrants, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Veterans Visa and Pro-
5 tection Act of 2019”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1 (1) ARMED FORCES.—The term “Armed
2 Forces” has the meaning given the term “armed
3 forces” in section 101 of title 10, United States
4 Code.

5 (2) CRIME OF VIOLENCE.—The term “crime of
6 violence” means an offense defined in section 16(a)
7 of title 18, United States Code—

8 (A) that is not a purely political offense;
9 and

10 (B) for which a noncitizen has served a
11 term of imprisonment of at least 5 years.

12 (3) ELIGIBLE VETERAN.—

13 (A) IN GENERAL.—The term “eligible vet-
14 eran” means a veteran who—

15 (i) is a noncitizen; and

16 (ii) meets the criteria described in sec-
17 tion 3(e).

18 (B) INCLUSION.—The term “eligible vet-
19 eran” includes a veteran who—

20 (i) was removed from the United
21 States; or

22 (ii) is abroad and is inadmissible
23 under section 212(a) of the Immigration
24 and Nationality Act (8 U.S.C. 1182(a)).

1 (4) NONCITIZEN.—The term “noncitizen”
 2 means an individual who is not a citizen or national
 3 of the United States (as defined in section 101(a) of
 4 the Immigration and Nationality Act (8 U.S.C.
 5 1101(a))).

6 (5) SECRETARY.—The term “Secretary” means
 7 the Secretary of Homeland Security.

8 (6) SERVICE MEMBER.—The term “service
 9 member” means an individual who is serving as a
 10 member of—

11 (A) a regular or reserve component of the
 12 Armed Forces on active duty; or

13 (B) a reserve component of the Armed
 14 Forces in an active status.

15 (7) VETERAN.—The term “veteran” has the
 16 meaning given the term in section 101 of title 38,
 17 United States Code.

18 **SEC. 3. RETURN OF ELIGIBLE VETERANS REMOVED FROM**
 19 **THE UNITED STATES; ADJUSTMENT OF STA-**
 20 **TUS.**

21 (a) PROGRAM FOR ADMISSION AND ADJUSTMENT OF
 22 STATUS.—Not later than 180 days after the date of the
 23 enactment of this Act, the Secretary shall establish a pro-
 24 gram and an application procedure that allows—

1 (1) eligible veterans outside the United States
2 to be admitted to the United States as aliens law-
3 fully admitted for permanent residence (as defined
4 in section 101(a) of the Immigration and Nationality
5 Act (8 U.S.C. 1101(a))); and

6 (2) eligible veterans in the United States to ad-
7 just status to that of aliens lawfully admitted for
8 permanent residence.

9 (b) VETERANS ORDERED REMOVED.—

10 (1) IN GENERAL.—With respect to noncitizen
11 veterans who are the subjects of final orders of re-
12 moval, including noncitizen veterans who are outside
13 the United States, not later than 180 days after the
14 date of the enactment of this Act, the Attorney Gen-
15 eral shall—

16 (A) reopen the removal proceedings of each
17 such noncitizen veteran; and

18 (B) make a determination with respect to
19 whether each such noncitizen veteran is an eli-
20 gible veteran.

21 (2) RESCISSION OF REMOVAL ORDER.—In the
22 case of a determination under paragraph (1)(B) that
23 a noncitizen veteran is an eligible veteran, the Attor-
24 ney General shall—

25 (A) rescind the order of removal;

1 (B) adjust the status of the eligible veteran
2 to that of an alien lawfully admitted for perma-
3 nent residence; and

4 (C) terminate removal proceedings.

5 (c) VETERANS IN REMOVAL PROCEEDINGS.—

6 (1) IN GENERAL.—With respect to noncitizen
7 veterans the removal proceedings of whom are pend-
8 ing as of the date of the enactment of this Act, not
9 later than 180 days after the date of the enactment
10 of this Act, the Attorney General shall make a deter-
11 mination with respect to whether each such noncit-
12 izen veteran is an eligible veteran.

13 (2) TERMINATION OF PROCEEDINGS.—In the
14 case of a determination under paragraph (1) that a
15 noncitizen veteran is an eligible veteran, the Attor-
16 ney General shall—

17 (A) adjust the status of the eligible veteran
18 to that of an alien lawfully admitted for perma-
19 nent residence; and

20 (B) terminate removal proceedings.

21 (d) NO NUMERICAL LIMITATIONS.—Nothing in this
22 section or in any other law may be construed to apply a
23 numerical limitation on the number of veterans who may
24 be eligible to receive a benefit under this section.

25 (e) ELIGIBILITY.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of law, including sections 212 and 237 of
3 the Immigration and Nationality Act (8 U.S.C. 1182
4 and 1227), a noncitizen veteran shall be eligible to
5 participate in the program established under sub-
6 section (a) or for adjustment of status under sub-
7 sections (b) or (c), as applicable, if the Secretary or
8 the Attorney General, as applicable, determines that
9 the noncitizen veteran—

10 (A) was not removed or ordered removed
11 from the United States based on a conviction
12 for—

13 (i) a crime of violence; or

14 (ii) a crime that endangers the na-
15 tional security of the United States for
16 which the noncitizen veteran has served a
17 term of imprisonment of at least 5 years;
18 and

19 (B) is not inadmissible to, or deportable
20 from, the United States based on a conviction
21 for a crime described in subparagraph (A).

22 (2) WAIVER.—The Secretary may waive the ap-
23 plication of paragraph (1)—

24 (A) for humanitarian purposes;

25 (B) to ensure family unity;

1 (C) based on exceptional service in the
2 Armed Forces; or

3 (D) if a waiver otherwise is in the public
4 interest.

5 **SEC. 4. PROTECTING VETERANS AND SERVICE MEMBERS**
6 **FROM REMOVAL.**

7 Notwithstanding any other provision of law, including
8 section 237 of the Immigration and Nationality Act (8
9 U.S.C. 1227), a noncitizen who is a veteran or service
10 member may not be removed from the United States un-
11 less the noncitizen has been convicted for a crime of vio-
12 lence.

13 **SEC. 5. NATURALIZATION THROUGH SERVICE IN THE**
14 **ARMED FORCES.**

15 (a) IN GENERAL.—Subject to subsection (b), a non-
16 citizen who has obtained the status of an alien lawfully
17 admitted for permanent residence pursuant to section 3
18 shall be eligible for naturalization through service in the
19 Armed Forces under sections 328 and 329 of the Immi-
20 gration and Nationality Act (8 U.S.C. 1439 and 1440).

21 (b) SPECIAL RULES.—

22 (1) GOOD MORAL CHARACTER.—In determining
23 whether a noncitizen described in subsection (a) is
24 a person of good moral character, the Secretary

1 shall disregard the one or more grounds on which
2 the noncitizen was—

3 (A) removed or ordered removed from the
4 United States; or

5 (B) rendered inadmissible to, or deportable
6 from, the United States.

7 (2) PERIODS OF ABSENCE.—The Secretary
8 shall disregard any period of absence from the
9 United States of a noncitizen described in subsection
10 (a) due to the noncitizen having been removed from,
11 or being inadmissible to, the United States if the
12 noncitizen satisfies the applicable requirement relat-
13 ing to continuous residence or physical presence.

14 **SEC. 6. ACCESS TO MILITARY BENEFITS.**

15 A noncitizen who has obtained the status of an alien
16 lawfully admitted for permanent residence pursuant to
17 section 3 shall be eligible for all military and veterans ben-
18 efits for which the noncitizen would have been eligible had
19 the noncitizen not been ordered removed or removed from
20 the United States, voluntarily departed the United States,
21 or rendered inadmissible to, or deportable from, the
22 United States, as applicable.

1 **SEC. 7. IMPLEMENTATION.**

2 (a) IDENTIFICATION.—The Secretary shall identify
3 noncitizen service members and veterans at risk of re-
4 moval from the United States by—

5 (1) before initiating a removal proceeding
6 against a noncitizen, asking the noncitizen whether
7 he or she is serving, or has served as a member of—

8 (A) a regular or reserve component of the
9 Armed Forces on active duty; or

10 (B) a reserve component of the Armed
11 Forces in an active status;

12 (2) requiring U.S. Immigration and Customs
13 Enforcement personnel to seek supervisory approval
14 before initiating a removal proceeding against a
15 service member or veteran; and

16 (3) keeping records of any service member or
17 veteran who has been—

18 (A) the subject of a removal proceeding;

19 (B) detained by the Director of U.S. Immi-
20 gration and Customs Enforcement; or

21 (C) removed from the United States.

22 (b) RECORD ANNOTATION.—

23 (1) IN GENERAL.—In the case of a noncitizen
24 service member or veteran identified under sub-
25 section (a), the Secretary shall annotate all immigra-

tion and naturalization records of the Department of
Homeland Security relating to the noncitizen—

(A) to reflect that the noncitizen is a service member or veteran; and

(B) to afford an opportunity to track the outcomes for the noncitizen.

(2) CONTENTS OF ANNOTATION.—Each annotation under paragraph (1) shall include—

(A) the branch of military service in which the noncitizen is serving, or has served;

(B) whether the noncitizen is serving, or has served, during a period of military hostilities described in section 329 of the Immigration and Nationality Act (8 U.S.C. 1440);

(C) the immigration status of the noncitizen on the date of enlistment;

(D) whether the noncitizen is serving honorably or was separated under honorable conditions;

(E) the ground on which removal of the noncitizen from the United States was sought; and

(F) in the case of a noncitizen the removal proceedings of whom were initiated on the basis

1 of a criminal conviction, the crime for which the
2 noncitizen was convicted.

3 **SEC. 8. REGULATIONS.**

4 Not later than 90 days after the date of the enact-
5 ment of this Act, the Secretary shall promulgate regula-
6 tions to implement this Act.

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